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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of

Reform of the Interstate Access  
Charge Rules

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RM-8356

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

COMMENTS OF BELL ATLANTIC<sup>1</sup>

I. Introduction.

Bell Atlantic strongly supports the United States Telephone Association's ("USTA's") call for a comprehensive proceeding to reform the access charge regulations.<sup>2</sup> The Commission should initiate such a proceeding as early as possible and commit to a one-year deadline for completion.

The access charge rules have remained static for the past decade, but the telecommunications industry has been anything but stagnant. The dynamic changes in technology and competitive entry have largely transformed the market structure of the industry in the years since divestiture. Commission policies fostered rapid expansion of competitive entry into all facets of

<sup>1</sup> The Bell Atlantic telephone companies ("Bell Atlantic") are The Bell Telephone Company of Pennsylvania, the four Chesapeake and Potomac telephone companies, The Diamond State Telephone Company and New Jersey Bell Telephone Company.

<sup>2</sup> United States Telephone Association ("USTA"), Reform of Interstate Access Charge Rules, Petition for Rulemaking, (filed Sept. 17, 1993) ("USTA Petition").

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telecommunications, yet the Commission has left in place access charge rules that make sense only in a monopoly environment.<sup>3</sup>

Whether or not the 1983 telecommunications market exhibited monopoly characteristics, today there is robust and growing competition. Bell Atlantic showed over a year ago that its share of DS3 circuits in urban areas has dropped below 50%.<sup>4</sup> A recent poll of special access customers shows that Bell Atlantic's share of DS1 equivalent circuits has dropped to 63% in Philadelphia, 66% in Washington, 72% in Pittsburgh, and 76% in Baltimore.<sup>5</sup> The rapid growth of new and existing competitive alternatives is likely to reduce Bell Atlantic's special access market share still further in the near term. The advent of switched access collocation will facilitate competitive inroads in lucrative switched access services.

Bell Atlantic's competitors for access services are not small, start-up companies with limited resources. Instead, they include such industry giants as AT&T and other interexchange carriers, affiliates of other regional Bell companies, cable

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<sup>3</sup> Access competition existed in 1983 and showed promise of expanding in the ensuing years. The Commission, in adopting the present rules, apparently assumed that competitive entry would grow sufficiently slowly that it could adjust them as needed. Its policies in the intervening years, however, have been inconsistent with that assumption. Whatever the Commission's intentions in 1983, the rules remain substantially unmodified in 1993.

<sup>4</sup> Letter from Marie Breslin, Director, FCC Relations, to Ms. Donna Searcy, Secretary, Federal Communications Commission at 8-9 (June 12, 1992). That analysis has not been refuted by any party.

<sup>5</sup> Quality Strategies, 1993 High Capacity Dedicated Access Market Share. The figures represent Bell Atlantic's share of DS1 equivalent high capacity circuits in service.

television giants, and other Fortune 100 companies. Without question, they need no regulatory protection.

The Commission's competitive policies have largely led to these rapid competitive inroads. At the same time, the Commission's antiquated access rules, not the free market, severely handicap Bell Atlantic's ability to compete for new and existing customers. In the competitive market it has fostered, it is incumbent upon the Commission to harmonize its access rules and competitive policies to ensure that all providers, new and old, have an equal opportunity to compete effectively. Otherwise, monopoly-based access rules will continue to conflict with competitive policies, severely handicapping one set of providers and preventing the Commission's policies from fully benefitting the public. Reform is sorely needed.

## II. The Rulemaking Should Incorporate USTA's Proposal.

In light of the evolving telecommunications environment, USTA has detailed seven objectives the Commission should follow when considering new access rules.<sup>6</sup> These objectives balance the need to promote universal service, network efficiency, technological innovation, and a national network infrastructure with a recognition of the Commission's competitive policies. USTA's proposals will meet those objectives and should be incorporated in the Commission's Notice of Proposed Rulemaking.

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<sup>6</sup> USTA Petition at 13-20.

The two most critical changes USTA proposes deal with the standard for streamlined regulation of access services and removal of the requirement to obtain a waiver before offering a new access service.<sup>7</sup> It is critical, however, that all providers of a service in the same geographical area be regulated the same, without the current artificial distinctions between "dominant" and "non-dominant" carriers. Regulatory policy should correspond to the competitiveness of the service in a particular geographical area, not the nature of the provider. The existing regulatory structure, by streamlining regulation of "non-dominant" carriers while fully regulating "dominant" competitors guarantees that "dominant" providers will be unable to compete effectively.

Similarly, the existing need for a "dominant" carrier to seek a waiver of the rules to offer a new access service which includes a new rate element delays new services which "non-dominant" competitors are permitted to offer immediately if they choose.<sup>8</sup> This provision drives customers to competitors who may meet their needs with little or no regulatory delay. There is no public policy served by the waiver requirement, and it must be eliminated.<sup>9</sup>

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<sup>7</sup> Bell Atlantic agrees with USTA that the existing sharing mechanism for price cap carriers must be eliminated in the interests of a level playing field. *See id.* at 34-37. This change is more appropriately addressed in the Commission's forthcoming review of price caps than in the access proceeding.

<sup>8</sup> If other carriers choose not to offer the service in the interim, the public will be deprived of that service.

<sup>9</sup> *See* USTA Petition at 9-12.

The rules the Commission adopts for determining whether a geographical area is competitive should be sufficiently flexible to accommodate areas larger than the service area of a single wire center, such as a series of contiguous wire centers or Rand McNally Major Trading Areas ("MTAs").<sup>10</sup> Competitors' networks are not confined to the area that happens to be served by a particular telephone company wire center, and the need to determine on a wire center-by-wire center basis whether a service should be deregulated creates an artificial distinction that is inconsistent with market realities and customer requirements.

In addition, determinations of whether a service is competitive should be streamlined, to prevent parties from "gaming" the regulatory process for anti-competitive gains. The criteria should be as objective as possible, and all Commission decisions should be made within prescribed periods. Bell Atlantic recommends a process under which a carrier that believes that a service is competitive in a geographical area files a statement showing how the service meets the Commission's criteria. After a brief period for comments, unless the Commission affirmatively finds that the service does not meet the standard of competitiveness, the service would automatically be treated as competitive sixty days after filing.<sup>11</sup> If the Commission believes that the record does not

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<sup>10</sup> USTA proposes that the Commission consider the area served by a single local exchange carrier wire center in making competitive determinations. *Id.* at 24-17.

<sup>11</sup> All carriers will have an equal incentive for the Commission to declare a service competitive if all are regulated the same way.

support the petitioner's claim that the service meets the competitive criteria, it may delay a final decision for no longer than an additional sixty days, during which the petitioner must provide better documentation of the basis of its claim.

### III. Conclusion.

It is critical that the Commission begin quickly to institute a rulemaking to reform the access charge rules, with a one-year deadline for completion. Only in this way can the obsolete access rules be brought into conformance with the Commission's pro-competitive policies. The Commission should grant USTA's Petition.

Respectfully submitted,

The Bell Atlantic Telephone  
Companies

By Their Attorney

  
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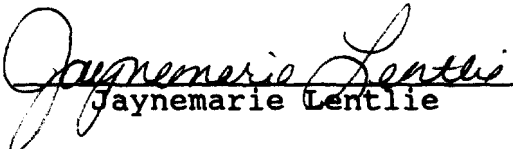
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November 1, 1993

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Comments of Bell Atlantic" was served this 1st day of November, 1993, by first class mail, postage prepaid, on the parties on the attached list.

  
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